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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/717,501

11/21/2003

William E. Eisele

P24110

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7590

05/18/2004

GREENBLUM & BERNSTEIN, P.L.C.
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RESTON, VA 20191

EXAMINER

NGUYEN, CHAU N

ART UNIT

PAPER NUMBER

2831

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N

10/717,501

Applicant(s)

EISELE, WILLIAM E.

Examiner

Chau N Nguyen

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/1/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification, as originally filed, does not provide support for the claimed subject matter of "the pressure wrap layer comprising at least two layers of pressure wrap" as now recited in claim 17.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9, line 2, "the drip collars" lacks antecedent basis.

Claim 10, line 1, delete "pair of".

Claim 11, lines 1-2, the recitation of "the plurality of exposed insulated wires are double over above a sealing collar of the conductor access point" is unclear and causes confusion.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham et al. (3,717,717) in view of McLeod (5,684,274).

Cunningham et al. discloses a thermal shield and hermetic seal for a spliced portion of cable, comprising a plurality of insulated conductors, the thermal shield and hermetic seal protecting the spliced portion against exposure to heat, oxygen

and ultraviolet radiation, and comprising a sheet of non-rigid conductive material (36) wrapped over at least one exposed insulated conductor of the spliced portion of the cable, and the sheet of conductive material contacting the at least one exposed insulated conductor, a pressure wrap (12) wrapped over the sheet of conductive material.

Cunningham et al. does not disclose the conductive material being aluminum nor a rigid enclosure housing the sheet of aluminum material and the pressure wrap (re claims 1 and 20). Although not specifically disclosed, it would have been obvious to one skilled in the art to use aluminum for the conductive sheet (36) of Cunningham et al. since aluminum is a well-known conductive material.

McLeod discloses a rigid enclosure for housing a cable splice. It would have been obvious to one skilled in the art to enclose the aluminum sheet and the pressure wrap of Cunningham et al. with the enclosure of McLeod to further protect the splice from the environment.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham et al.

Cunningham et al. discloses a removable shield covering a conductor access point of a cable, the conductor access point enabling access to a portion of the

cable comprising a plurality of exposed insulated wires, the removable shield comprising a layer of flexible conductive wrap (36) that covers the plurality of exposed insulated wires, the conductive wrap layer being in direct contact with at least one of the exposed insulated wires, and a layer of pressure wrap (12) that directly covers the conductive wrap layer, wherein the removable shield reducing exposure of the exposed insulated wires to heat, oxygen and ultraviolet radiation.

Cunningham et al. does not disclose the conductive wrap being aluminum. However, it would have been obvious to one skilled in the art to use aluminum for the conductive sheet (36) of Cunningham et al. since aluminum is a well-known conductive material.

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 2-6 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2 and 5 of U.S. Patent No. 6,703,563 (Eisele). Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 2 and 5 of Eisele do call for any other element between the exposed insulated conductors and the aluminum wrap. Accordingly, the aluminum wrap would contact at least one of the exposed insulated conductors.

10. Claims 8-19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of U.S. Patent No. 6,703,563 (Eisele) in view of Hansen et al. (5,753,861).

Claim 9 of Eisele discloses the invention substantially as claimed except for drip collars on each end of the conductor access point, each drip collar being positioned between an inner and an outer jacket of the cable and the pressure wrap layer comprising at least two layers. Hansen et al. discloses a covering device comprising drip collars (27, 28; Fig. 3) on each of a conductor access point, each drip collar being position on an inner jacket. It would have been obvious to one

skilled in the art to provide the drip collars as taught by Hansen et al. in the device of Eisele to seal between the cable jacket and the ends of the aluminum and pressure wraps. It would also have been obvious to one skilled in the art to provide a pressure wrap which is comprised of at least two layers in the device of Eisele to further protect the cable splice from the environment since it has been held that merely duplicating the essential working part of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Cited Art

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Norton and Graves disclose covering device for cable splice.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau N Nguyen whose telephone number is 571-272-1980. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext 31.

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The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Chau N Nguyen
Primary Examiner
Art Unit 2831